

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA
Huntington Division**

**JOHN McCORMICK and
ALICE McCORMICK, on behalf
of all other individuals similarly situated,**

Plaintiffs,

v.

**WELLS FARGO BANK d/b/a
WELLS FARGO HOME MORTGAGE,
and SAMUEL I. WHITE, P.C.,**

Defendants.

Civil Action No. 3:08cv944

DEFENDANT SAMUEL I. WHITE, P.C.'S MOTION TO DISMISS

Defendant Samuel I. White, P.C. ("SIWPC"), by counsel, moves this honorable Court to dismiss Counts I and III of Plaintiffs' Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim for which relief may be granted. For the reasons set forth in the accompanying Memorandum in Support,¹ Count I and Count III of Plaintiff's Amended Complaint should be dismissed with prejudice.

Submitted August 29, 2008

Respectfully submitted,

SAMUEL I. WHITE, P.C.

By: /s/ John C. Lynch
Of Counsel

¹ Pursuant to Local Rule of Civil Procedure 7.1(a), SIWPC attaches to this Motion the exhibits to which SIWPC refers in its Memorandum in Support.

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of August, 2008, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants:

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